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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,370	01/15/2002	Dennis J. Michaelson	STES 105	7535
21658	7590	10/01/2007	EXAMINER	
DYKAS, SHAVER & NIPPER, LLP			CHORBAJI, MONZER R	
P.O. BOX 877			ART UNIT	PAPER NUMBER
BOISE, ID 83701-0877			1744	
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10/01/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/050,370	MICHAELSON ET AL.
	Examiner	Art Unit
	MONZER R. CHORBAJI	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 September 2007.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 25-31 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 25-31 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 15 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

**This non-final action is in response to the RCE/Amendment received on 09/04/2007**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant recites in lines 3-4 and lines 8-10 of amended independent claim 1 the limitations that each of said opposing latch assemblies located either on one of said pair of opposing end walls or a side wall and said top cover, if said pair of opposing latch assemblies are located on said end walls. The disclosure does not describe nor provide in the drawings latch assemblies on end walls of the cassette. It only recites and illustrates latch assemblies on sidewalls of the cassette.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 25 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittrock et al (U.S.P.N. 5,482,067).

Regarding claim 25, Wittrock discloses a double hinge (figure 2:40, 14 and 12) for connecting flat two-dimensional top cover (figure 2:12 and unlabeled length and width of the top cover in figure 2) to a cassette (figure 2:14) having opposing side bottom and end walls and a pair of opposing latch assemblies (figure 1:72 and col.5, lines 59-61 where the top cover 12 has a latch assembly 72 and the cassette 14 has a latch assembly as shown in figure 1), each of the opposing latch assemblies located on one of the pair of opposing side walls (figure 1:16 and 24 where in col.5, lines 58-61, Wittrock teaches that each latch assembly 72 snaps over the opposite wall and for this to occur latch assemblies 72 are located on opposing side walls 16 and 24) such that one of the opposing latch assembly (upper latch assembly 72 in figure 1) is located on upper side (side wall 16 in figure 1) while the other opposing latch assembly (lower latch assembly 72 in figure 1) is located on lower side (side wall 24 in figure 1) of the pair of the opposing side walls, each of the opposing latch assemblies (each latch assembly is considered as 72 in figure 1) has its own latch detent (unlabeled upper parts of opposing side walls 16 and 24 in figure 1, which tab assemblies snap over as taught in column 5, lines 59-61). The double hinge includes a first hinge (figure 2:62) pivotally connected to side wall (unlabeled end wall of cassette 14 in figure 2) and also pivotally connected to hinge plate (figure 2:42), hinge plate has a length and a width (unlabeled length and width of hinge plate 42 in figure 2), hinge plate pivotally connected between first and second hinges (figure 2:62, 42 and 60) and second hinge pivotally connected to hinge

plate (figure 2:60 and 42) and to the top cover (figure 2:60 and 12). Furthermore, Wittrock teaches that the hinge allows the top cover to lay flat upon the same surface that the bottom wall also rests upon (figure 2:14 and 12). In addition, Wittrock discloses two positions where the closed position is shown in figure 4 and the first position (open position) is displayed in figure 2. In this first position, the first hinge and the second hinge are in the same vertical plane upon rotating figure 2 of Wittrock. Furthermore, Wittrock teaches that the top is folded beneath the bottom of the container (col.5, lines 41-45). See MPEP 2114 where the manner of operating the device does not differentiate apparatus claim from the prior art. In addition, the pair of the opposing latch assemblies (figure 1:72) are capable of being pushed by two opposing pressure (for example, applying pressure in an upward direction to one latch assembly 72 while applying pressure in a downward direction to the other latch assembly 72 in figure 1) forces so that the second hinge (figure 2:60) is moved from a closed position (as shown in figure 4) to an open position (as shown in figure 2).

Regarding claims 30-31, Wittrock double hinge (figure 2:42) assembly is capable of making contact with portions of either bottom (figure 2:14) or top (figure 2:12) upon full rotation of either of first hinge (figure 2:62) or second hinge (figure 2:60) where the top part is folded underneath the bottom part (col.5, lines 41-45). See MPEP 2114.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) in view of Dabich (U.S.P.N. 4,535,908).

Regarding claim 1, Wittrock discloses a double hinge (figure 2:40, 14 and 12) for connecting flat two-dimensional top cover (figure 2:12 and unlabeled length and width of the top cover in figure 2) to a sterilization cassette (figure 2:14) having opposing side bottom and end walls and a pair of opposing latch assemblies (figure 1:72 and col.5, lines 59-61 where the top cover 12 has a latch assembly 72 and the cassette 14 has a

latch assembly as shown in figure 1), each of the opposing latch assemblies located on one of the pair of opposing side walls (figure 1:16 and 24 where in col.5, lines 58-61, Wittrock teaches that each latch assembly 72 snaps over the opposite wall and for this to occur latch assemblies 72 are located on opposing side walls 16 and 24), each of opposing latch assemblies (each latch assembly is considered as 72 in figure 1) has its own latch detent (unlabeled upper parts of opposing side walls 16 and 24 in figure 1, which tab assemblies snap over as taught in column 5, lines 59-61). The double hinge includes a first horizontally oriented hinge portion (figure 2:62) interconnected to the end wall (unlabeled end wall of cassette 14 in figure 2) and the top cover (figure 2:12, 62 and 42), if the pair of opposing latch assemblies are located on opposing side walls (figure 1:16, 24 and 72), dividing the end wall (unlabeled end wall of cassette 14 in figure 2) into upper (figure 2, unlabeled upper part of cassette 14) and lower (figure 2, unlabeled lower part of cassette 14) halves and a second hinge portion (figure 2:60) oriented in juxtaposed relationship to the first hinge (figure 4 where two unlabeled hinges are in juxtaposed relationship to one another). Wittrock top cover (figure 2:12) is connected to the cassette (figure 2:14) by a double hinge assembly (figure 2:62 and 60). Furthermore, Wittrock teaches that the hinge allows the top cover to lay flat upon the same surface that the bottom wall also rests upon (figure 2:14 and 12) or for the top cover to be folded beneath the bottom wall of the cassette (col.5, lines 41-44). Also, the pair of the opposing latch assemblies (figure 1:72) are capable of being pushed by two opposing pressure (for example, applying pressure in an upward direction to one latch assembly 72 while applying pressure in a downward direction to the other latch

assembly 72 in figure 1) forces so that the top cover is moved from a closed position to an open position. Wittrock does not specifically disclose that the second hinge divides the top cover into two interconnected pieces. Dabich, which is in the art of designing lids, teaches the use of a double hinge lids where the second hinge (figure 6:30) divide the top cover into two interconnected pieces (figure 6:18 and 20) because a double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cassette in Wittrock the second hinge that divides the top cover into two interconnected pieces because a double hinge mechanism results in opening the inner lid with one hand by most users as shown by Dabich (col.4, lines 27-33).

As to the limitation that the top cover piece attached to the end wall be of the same width and length as the end wall, the disclosure does not provide a criticality for this feature. The disclosure as a whole teaches that the advantage of having double hinge is to enable folding the top cover beneath the bottom container. This mechanism is disclosed in Wittrock (col.5, lines 41-44). It is further noted that it is known in the art of designing hinges to vary size of the hinge plates. In addition, see MPEP 2114 and MPEP 2144.04, IV.

Regarding claim 26, Wittrock does not specifically teach that the hinge plate of the two-hinge assembly is a portion of the top of the container. Dabich teaches the use of a double hinge lids where the second hinge (figure 6:30) divides the top cover into two interconnected pieces (figure 6:18 and 20) where piece 18 in figure 2 represents a

hinge plate, which is part of the top. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Wittrock hinge structure by including an additional double hinge closing mechanism that provides two interconnected lids as taught by Dabich since double hinge mechanism results in opening the inner lid with one hand by most users (col.4, lines 27-33).

**9.** Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 25 and further in view of Kirksey (U.S.P.N. 4,576,281).

Wittrock does not specifically teach that the length of the hinge plate of the two-hinge assembly is equal in length of one of the opposing sides. Kirksey, which is in the art of designing hinged closing/opening structures, teaches that the hinge plate (figure 1:36) is equal in length to the unlabeled opposite front end of wall 28 in figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fully lengthen the hinge plate of Wittrock from one end of the container to the other as taught by Kirksey (figure 2:36) so that better alignment of the top and bottom parts is obtained during the handling of container.

**10.** Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittrock et al (U.S.P.N. 5,482,067) as applied to claim 25 and further in view of DeCoster (U.S.P.N. 4,723,693).

Wittrock does not specifically teach that the width of the hinge plate of the two-hinge assembly is equal to the width of one of the opposing sides or that the width of the hinge plate is equal to one half of the width of one of the opposing sides. DeCoster,

which is in the art of designing double hinging closures, teaches that the width of hinge plate 54 in figure 4 is equal to the width of the bottom of container 12 in figure 1. This bottom is not shown in the drawings. Depending on the depth of the bottom of the container (figure 1:12), the width of the hinge plate is capable of being equal to one half of the width of this bottom. As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to shorten the width of Wittrock's hinge plate to the same dimension as the container's width as taught by DeCoster so that Wittrock container can handle much smaller medical and dental items.

As to the limitation that the width of the hinge plate is equal to the width of is equal to one half the width of one of the opposing sides, the disclosure does not provide a criticality for this feature. The disclosure as a whole teaches that the advantage of having double hinge is to enable folding the top cover beneath the bottom container. This mechanism is disclosed in Wittrock (col.5, lines 41-44). It is further noted that it is known in the art of designing hinges to vary size of the hinge plates. In addition, see MPEP 2114 and MPEP 2144.04, IV.

***Response to Arguments***

11. Applicant's arguments filed on 09/04/2007 have been fully considered but they are not persuasive.

On pages 7-8 of the Remarks/Arguments section, Applicant argues that Wittrock's tabs are located next to each other on one side of the cassette and that Wittrock makes no reference to the application of opposing pressure to the tabs because pressure need to be applied only to one of the tabs.

Wittrock discloses a pair of opposing latch assemblies (figure 1:72 and col.5, lines 59-61 where the top cover 12 has a latch assembly 72 and the cassette 14 has a latch assembly as shown in figure 1), each of the opposing latch assemblies located on one of the pair of opposing side walls (figure 1:16 and 24 where in col.5, lines 58-61, Wittrock teaches that each latch assembly 72 snaps over the opposite wall and for this to occur latch assemblies 72 are located on opposing side walls 16 and 24) such that one of the opposing latch assembly (upper latch assembly 72 in figure 1) is located on upper side (side wall 16 in figure 1) while the other opposing latch assembly (lower latch assembly 72 in figure 1) is located on lower side (side wall 24 in figure 1) of the pair of the opposing side walls, each of the opposing latch assemblies (each latch assembly is considered as 72 in figure 1) has its own latch detent (unlabeled upper parts of opposing side walls 16 and 24 in figure 1, which tab assemblies snap over as taught in column 5, lines 59-61). Furthermore, the pair of the opposing latch assemblies (figure 1:72) are capable of being pushed by two opposing pressure (for example, using the first hand to apply pressure in an upward direction to one latch assembly 72 while using the second hand to apply pressure in a downward direction to the other latch assembly 72 in figure 1) forces so that the second hinge (figure 2:60) is moved from a closed position (as shown in figure 4) to an open position (as shown in figure 2). Moreover, see MPEP 2114 where the manner of operating a device does not differentiate apparatus claim from the prior art.

On pages 9-11 of the Remarks/Arguments section, Applicant argues that Wittrock has his hinge assembly on one end wall of the cassette while the latch

assemblies are located on another end wall, not a pair of side walls and that Wittrock cassette is designed to be opened with one hand, because both tabs are located next to each other on an end wall of the cassette while amended claim 1 requires both hands to open the latches.

The examiner is not limited to labeling the structural parts of the cassette according to only the terms described in the Applicant's disclosure. The cassette in figure 1 in Wittrock has structures 16 and 24 that are considered as opposite side walls while the other end of the cassette is considered as the opposite end walls where the double hinge assembly is positioned. The argument regarding both tabs being on opposite sidewalls has been previously addressed above.

On pages 9-11 of the Remarks/Arguments section, Applicant argues that Dabich is nonanalogous reference, that Dabich does not contain any latches and is specifically designed to be opened using only one hand as opposed to the instant claims that require both hands, that modifying Dabich as to include the limitations of claim 1 would teach away from Dabich invention, which is to open the lid with one hand and that Kirksey does not teach the limitations of claim 25.

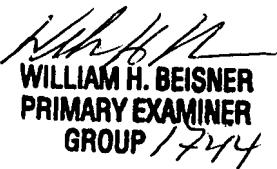
Wittrock describes two opposing latch assemblies (figure 1:72 and col.5, lines 59-61) that use both hands to open as explained previously above. Furthermore, both the instant claims and Dabich are in the art of designing double hinge closing structures and both are concerned with building such a closure device. Clearly, Dabich is analogous art and that the feature of having two opposing latch assemblies that are opened with both hands is taught in Wittrock not in Dabich, Kirksey, or DeCoster.

Moreover, Dabich is combined with Wittrock for the limitation where the second hinge divides the top cover into two interconnected pieces such that the combination provides the advantage taught by Dabich structure where his mechanism results in opening the inner lid with one hand (col.4, lines 27-33) as opposed to using two hands.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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